

Atty. Docket No.: PU3680US3

#### REMARKS

Claims 1-28 are pending in this application. Claims 6 and 28 have been canceled and claims 8, 15, 16 and 18-27 are withdrawn. Claims 1 and 7 have been amended.

The Examiner has rejected the pending claims under 35 U.S.C. 112 first paragraph as not enabling. The Examiner notes the use of the functional language in claim 1 "an agent that attenuates function" and concludes that the specification does not allow one skilled in the art to use the claimed invention without undue experimentation, citing *In re Wands*.

Applicants have addressed the Examiner's rejection by amending the claims, adding the formula disclosed in the specification to the first independent claim.

The Examiner has also rejected the claims under 35 U.S.C. 103(b) as being unpatentable over Hoffman et al. in view of Miao et al. (USPN 6,093,723). The Examiner states that Hoffman teaches BDA452 as an inhibitor of calcium influx, but does not teach its use in the treatment of arthritis. The Examiner also states that "Miao et al. teaches that agents that inhibit calcium influx are useful in the treatment of autoimmune diseases, inflammatory diseases, rheumatoid arthritis, etc. (col. 1, lines 10-44 and col. 12 lines 35-59.)" The Examiner then concludes that it would have been obvious to one of ordinary skill in the art to utilize the benzodiazepines of Hoffmann et al. for arthritis based on Miao's teaching that the compounds of Miao's formula 1 may be used to prevent or treat arthritis, among other things.


Applicants respectfully traverse the rejection. The combination does not provide a reasonable expectation of success for one of ordinary skill in the art. Miao's disclosure is directed to B-carbolines, and Hoffmann's to benzodiazepines. The disclosed compounds are wholly unrelated. There is nothing in either reference to suggest to one skilled in the art that structurally unrelated compounds having one property in common would therefore have more or all properties in common. In light of these arguments and present amendments, Applicants request the rejection be withdrawn.

Applicants believe that no fees are due in connection with the filing of this paper other than those specifically authorized herewith. However, should any other fees be

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deemed necessary to effect the timely filing of this paper the Commissioner is hereby authorized to charge such fees to Deposit Account No. 07-1392.

Respectfully submitted,



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